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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

GERALDINE WOOD,

Plaintiff and Appellant,

v.

LAURA FARWELL,

Defendant and Respondent.

B283689

(Los Angeles County  
Super. Ct. No. BC596505)

APPEAL from judgment of the Superior Court of Los Angeles County, Benny C. Osorio, Judge (Ret.). Affirmed.

Geraldine Wood, in pro. per., for Plaintiff and Appellant.

Hartsuyker, Stratman & Williams-Abrego, Jason M. Pemstein; Veatch Carlson, Serena L. Nervez, for Defendant and Respondent.

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Plaintiff and appellant Geraldine Wood appeals from a judgment following an order granting summary judgment in favor of defendant and respondent Laura Farwell in this personal injury action. On appeal, Wood contends her suit is not barred by the two year statute of limitations. We conclude the record and the briefs are inadequate for appellate review. We affirm.

## **FACTS AND PROCEDURAL HISTORY**

The appellate record consists of the trial court case summary (docket), a minute order following a hearing on a motion for summary judgment brought by Farwell and co-defendant Baldwin Crest Realty (Baldwin Crest), a signed order granting the motion for summary judgment, and a notice of ruling.

The docket reflects that Wood filed a complaint on October 1, 2015, and an amended complaint on November 24, 2015. An answer and notice of related case was filed on February 6, 2016. A notice of the court's ruling on the related case was filed February 6, 2016. On March 28, 2017, Farwell and Baldwin Crest filed a motion for summary judgment. On June 12, 2017, Wood filed an opposition to the

motion for summary judgment, separate statement, and declaration. None of these documents have been provided in the record on appeal.

Following a hearing on June 19, 2017, the court issued an order granting Farwell and Baldwin Crest's motion for summary judgment. The court found that Farwell and Baldwin Crest met their burden of proof to demonstrate that Wood's suit was barred by the statute of limitations. Because Wood did not provide the court with evidence to contradict Baldwin Crest's assertions, the court found there was no triable issue of fact with respect to the statute of limitations issue. No reporter's transcript of the hearing, or suitable substitute, has been provided in the record on appeal.

Wood filed a timely notice of appeal.

## DISCUSSION

### **Inadequate Record**

““A judgment or order of the lower court is *presumed correct.*”” (*Hearn v. Howard* (2009) 177 Cal.App.4th 1193, 1201, quoting *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) An appellant bears the burden of overcoming this presumption by affirmatively showing error on an adequate record. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140–1141.) Under rule 8.120(b) of the California Rules of Court, “[i]f an appellant intends to raise any issue that requires

consideration of the oral proceedings in the superior court, the record on appeal must include a record of these oral proceedings in the form of one of the following: [¶] (1) A reporter's transcript under rule 8.130; [¶] (2) An agreed statement under rule 8.134; or [¶] (3) A settled statement under rule 8.137." "[I]n the absence of a required reporter's transcript and other [relevant] documents, we presume the judgment is correct." (*Stasz v. Eisenberg* (2010) 190 Cal.App.4th 1032, 1039.)

"A necessary corollary to this rule [is] that a record is inadequate, and appellant defaults, if the appellant predicates error only on the part of the record he provides the trial court, but ignores or does not present to the appellate court portions of the proceedings below which may provide grounds upon which the decision of the trial court could be affirmed.' [Citation.]" (*Osgood v. Landon* (2005) 127 Cal.App.4th 425, 435.) "It is axiomatic it is the appellant's responsibility to provide an adequate record on appeal. (See *Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295–1296 [to overcome presumption on appeal that an appealed judgment or order is presumed correct, appellant must provide adequate record demonstrating error]; *Estrada v. Ramirez* (1999) 71 Cal.App.4th 618, 620, fn. 1 [burden on appellant to provide accurate record on appeal to demonstrate error; failure to do so 'precludes adequate review and results in affirmance of the trial court's determination']; see also Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2005)

4:43, p. 4–10.1 [appellate record inadequate when it ‘appears to show *any* need for *speculation or inference* in determining whether error occurred’].)” (*Lincoln Fountain Villas Homeowners Assn. v. State Farm Fire & Casualty Ins. Co.* (2006) 136 Cal.App.4th 999, 1004, fn. 1.)

Without the complaint, motion for summary judgment, supporting evidence, and opposition to the motion for summary judgment, we cannot review any arguments, concessions, or information filed with the trial court. Nor can we review oral argument presented to the trial court, because Wood failed to file a reporter’s transcript or suitable substitute. Even were we to judicially notice the appellate record in Wood’s related case against Baldwin Crest (*Wood v. Baldwin Crest Realty* (Feb. 8, 2019, B285492 [nonpub. opn.])), we cannot be assured that the motion for summary judgment in that case rests on the exact same legal arguments and statement of undisputed facts as the summary judgment motion filed in this case by Farwell. Nor can we determine if the court consolidated the cases for pretrial purposes. (See Code Civ. Proc., § 1048, subd. (a).) Consequently, we cannot independently determine whether the court erred in granting summary judgment in this case.

Although Wood appears in this appeal in pro. per., her briefs do not conform to the rules of court. (See Cal. Rules of Court, rule 8.204(a)(1) [briefs must state each point under a separate heading, supported by argument, citation of authority, and supported by a citation to the record wherever the matter appears]; *Del Real v. City of Riverside* (2002) 95

Cal.App.4th 761, 768 [points raised that lack citation to the record may be deemed waived]; *Kim v. Sumitomo Bank* (1993) 17 Cal.App.4th 974, 979 [reviewing court may disregard contentions unsupported by citation to the record or legal authority]; *First American Title Co. v. Mirzaian* (2003) 108 Cal.App.4th 956, 958, fn. 1 [parties proceeding in propria persona are entitled to the same but no greater consideration than other litigants and attorneys].) Without argument supported by citations to the record or pertinent legal authority, Wood cannot demonstrate error. The record on appeal is wholly inadequate to allow meaningful review. We presume the judgment is correct unless the record affirmatively demonstrates otherwise, and therefore, the judgment must be affirmed.

## **DISPOSITION**

The judgment is affirmed. Defendant and Respondent Laura Farwell is awarded costs on appeal.

MOOR, J.

We concur:

BAKER, Acting P.J.

KIM, J.